

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

BRODERICK W. SEAY, JR.  
PETITIONER

C/A No:  
2:17-2814-TMC-MGB

VS.  
SHERIFF AL CANNON  
RESPONDENT

RECEIVED CLERK'S OFFICE  
2018 JAN 17 1A 9 27  
DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON, SC

RE: MOTION OF OBJECTION FOR EXTENSION OF  
TIME / DISMISSAL OF CHARGE AS BIAS  
AND PREJUDICE.

THEREFORE, NOW COMES PETITIONER IN A PRO-SE  
MOTION ASKING THIS HONORABLE COURT TO DISMISS  
THIS CASE FOR THE FOLLOWING REASONS.

THE RESPONDENT HAD UNTIL 1-3-18 TO DO THERE  
RETURN. THE RESPONDENT HAS SIMPLY FAILED TO  
DO HER JOB.

PETITIONER REQUEST THIS HONORABLE COURT TO  
DO THERE DUTY, AND TAKE THIS MOTION AS A DE-  
FAULT, BECAUSE RESPONDENT FAILED TO DO A TIMELY  
RETURN AS REQUESTED BY THE HONORABLE JUDGE.

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Broderick Seay Jr.  
PETITIONER

PETITIONER KNOWS THAT CONGRESS COULD NOT REALLY HAVE MEANT TO ELIMINATE SUCH AN ESSENTIAL PROCEDURE TO A PETITIONER. IF THE COURT IS NOT PERSUADED THAT IT CAN ENTER A DEFAULT JUDGMENT. THEN MAY THIS HONORABLE COURT MOVE TO FILE A CONTEMPT OF COURT ORDER ON RESPONDENT FOR NOT DOING A TIMELY RETURN AS REQUESTED.

THE DOUBLE JEOPARDY CLAUSE BARS A SECOND PROSECUTION FOR THE SAME OFFENSE ONLY IF JEOPARDY ATTACHED IN THE ORIGINAL PROCEEDING. IN A CRIMINAL PROCEEDING, JEOPARDY ATTACHES WHEN THE PETITIONER FACES A POTENTIAL DETERMINATION OF GUILT. IN A JURY TRIAL, JEOPARDY ATTACHES WHEN THE JURY IS IMPANELED AND SWORN. SEE MARTINEZ V. ILL. 134 S. CT. 2070. 2074-75 [2014] JEOPARDY ATTACHED WHERE JURY IMPANELED AND SWORN. HOFFLER V. BEZIO 726 F.3D. 144, 146 [2<sup>ND</sup> CIR. 2013.] U.S. V. MODANO. 762 F.3D 403, 410 [4<sup>TH</sup> CIR. 2014] JEOPARDY ATTACHED WHERE JURY IMPANELED AND SWORN. AND U.S. V. RIVERA 384 F.3D 49, 56 [3<sup>RD</sup> CIR. 2004] NO MANIFEST NECESSITY BECAUSE JUDGE DID NOT CAREFULLY CONSIDER ALTERNATIVES BEFORE DECLARING MISTRIAL BASED ON UNAVAILABILITY OF WITNESS. THIS IS THE SAME ISSUE AS PETITIONERS CASE. WALCK V. EDMONDSON, 472 F.3D 1227, 1238 [10<sup>TH</sup> CIR. 2007] NO MANIFEST NECESSITY

DUE TO FAILURE OF PROSECUTION'S KEY WITNESS TO TESTIFY, THIS IS THE SAME CASE AS PETITIONER'S CASE ALSO.

WHEREFORE PETITIONER REQUEST THIS HONORABLE COURT TO SET HIM AT HIS LIBERTY AND DISMISS THIS CASE AS BIAS AND PREJUDICE.

  
PETITIONER

CERTIFICATE OF SERVICE

I BRODERICK W. SEAY JR. DO HEREBY CERTIFY THAT I HAVE THIS DATE SERVED A COPY OF PETITIONER'S MOTION TO OBJECT FOR EXTENSION OF TIME AND DISMISSAL OF CHARGE.

THIS 11. DAY OF JAN. 2018

DEPOSITING ONE COPY OF THE SAME IN THE U.S. POSTAL MAIL AS ADDRESSED.

MELODY J. BROWN  
P.O. Box 11549  
Co. S.C. 29211

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PETITIONER